Remarks

Claims 1-24 remain in this application. Claims 1 and 21 were amended above. Claims 1 and 21 were amended above to further describe the detector as a non-imaging detector and to further describe the detecting step as one without imaging. These amendments do not introduce new matter. Support for these amendments can be found throughout the specification, for examples, page 4, line 17, and page 12, line 27. Therefore, it is respectfully requested that they be entered into the application. Attached hereto is a marked-up version of the changes made to the claims by the current amendment. The attached pages are captioned **"Version with marking to show changes made."**

The outstanding Office Action stated that legible copies of the US and foreign references were not received. The IDS with copies of the cited references have been mailed herewith.

35 U.S.C. §102 Rejection

The Office Action rejected claims 1-3, 6, 8, 12-16, 18-21, 23, and 24 under 35 U.S.C. §102 over Duggan et al (USPatent 6,124,594). Applicants have mailed herewith a Rule 131 Affidavit by Timothy P. Newton that states that Applicants' invention was conceived and reduced to practice prior to the filing date of Duggan et al. Therefore, Duggan is not a prior art reference, and it is respectfully requested that the 35 U.S.C. §102 rejection of Applicants' invention be withdrawn.

35 U.S.C. §103 Rejections

The Office Action reminded Applicants of their obligation to point out if inventions were not commonly owned at any time. All the inventions were commonly owned at all times.

Claims 4, 5, 7, 10, 17 and 22 were rejected under 35 U.S.C. §103(a) as being unpatentable over Duggan et al in view of Collins et al (US Patent 5,633,504). The Office Action states:

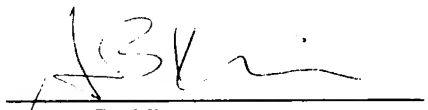
"Duggan does not disclose said source providing ultraviolet light or a filter. Collins discloses in column 2, lines 44-62 and column 4, lines 15-30, an apparatus for detecting the presence of an ophthalmic product comprising: source which emits ultraviolet light and wherein said lens absorbs in the UV and wherein said source can also emit visible light for any particular measurement being made. Collins also discloses said system comprising a filter. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the apparatus of Duggan such that said energy source comprised ultraviolet light emission and filters could be used in order to alter the form of fluorescence that is being measured for a particular product as disclosed by Collins in column 4, lines 15-30." Office Action, page 4.

Applicants traverse this rejection. The portion of the rejection based on Duggan et al is moot, because of the inventor's Rule 131 Affidavit. Applicants have limited claims 1 and 21 to a non-imaging detector and a method of detecting without imaging. Collins teaches a method of inspection that involves the imaging of the contact lens, such as by a "camera", "video camera", "CCD", "image sensing means", "the eye", imaging equipment, "CCD array...contains 378,264 individual sensors", and "electronic imaging system". (Col. 2, lines 15-20, lines 34, 40, 50-51, 61, and 63; col. 1, line 66- col. 2, line 2; col. 2, lines 7, 10 and 51). Collins does not teach nor suggest nor provide any motivation for Applicants' invention of a detection system and method. Collins' system performs inspection by analyzing an electronic image of a lens. Therefore, it is respectfully requested that the 35 U.S.C. §103 rejection over Collins of claims 4, 5, 7, 10, 17, and 22 be withdrawn.

Claims 9 and 11 were rejected under 35 U.S.C. §103 over Duggan. Again the Rule 131 Affidavit removes Duggan as a prior art reference; therefore, this rejection is moot.

It is presently believed that claims 1-24 are presently in condition for allowance. The allowance of claims 1-24 as a patent is therefore respectfully requested.

Respectfully submitted,



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Version with marking to show changes made

1. (Amended once) An apparatus for detecting the presence or position of an ophthalmic product in a container, comprising:

(a) source of electromagnetic energy located relative to the container to direct electromagnetic energy at the container;

(b) a non-imaging detector disposed relative to the container and the source to detect electromagnetic energy from the source which passes through or is reflected by the product and the container; and

(c) a processor for determining the presence or position of the product in the container responsive to fluorescence, absorption or reflection of the electromagnetic energy by the product.

21. (Amended once) A method for detecting the presence or position of an ophthalmic product in a container, the product including a media which fluoresces, absorbs or reflects the electromagnetic energy of a frequency in a specified range, the method comprising:

(a) directing electromagnetic energy at the product and the container;

(b) detecting, without imaging, the absence of or reduction in electromagnetic energy of a frequency in a specified range which passes through or is reflected by the product and the container; and

(c) processing the detected electromagnetic energy to determine the presence or position of the product in the container.